

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

3:12-cr-00249-MA

Plaintiff,

ORDER

v.

ADRIAN AVALOS-VIZCARRA,

Defendant.

MARSH, Judge

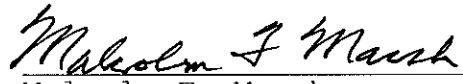
On July 3, 2012, defendant pled guilty to a single count indictment charging Illegal Reentry under 8 U.S.C. § 1326(a). On October 3, 2012, this court sentenced defendant to fifteen months imprisonment to be followed by three years of supervised release.

Currently before the court is a motion for a new trial under Fed. R. Crim. P. 33 on the grounds that defendant has discovered new evidence that the prosecution may be barred by the statute of limitations. It appears well settled, however, that defendant may not move for a new trial under Rule 33 after a guilty plea. United States v. Collins, 898 F.2d 103, 104 (9th Cir. 1989) (per curiam); United States v. Mosley, No. 90-50564, 1991 WL 68002, at *1 (9th

Cir. 1991); United States v. Graciani, 61 F.3d 70, 78 (1st Cir. 1995); United States v. Miller, 197 F.3d 644, 648 n.3 (3d Cir. 1999). Defendant has not cited any authority to the contrary. Accordingly, defendant's Motion for a New Trial Under Rule 33 (#20) is DENIED.

IT IS SO ORDERED.

DATED this 14 day of December, 2012.



Malcolm F. Marsh
United States District Judge